



STATE OF NEVADA
COMMISSION ON ETHICS
<http://ethics.nv.gov>

Wednesday, June 14, 2006
9:00 a.m.

Nevada Legislature
401 South Carson Street, Room 2134
Carson City, Nevada 89701

MINUTES

These minutes constitute a summary of the above proceedings of the Nevada Commission on Ethics.
A verbatim transcript of the open session proceedings, prepared by a certified court reporter,
is available for inspection at the Commission offices in Carson City and Las Vegas.

Commission Members Present:

Caren Jenkins, Esq., Chairman; Mark Hutchison, Esq., Vice Chairman;
Randall Capurro; Timothy Cashman; William Flangas;
Rick Hsu, Esq.; George Keele, Esq.; Jim Kosinski, Esq.

Commission on Ethics Staff Present:

Matt Di Orio, Senior Investigator
Emily H. Nunez, Office Manager

Others Present:

Candidates for Executive Director:

Mary-Ann Brown, Patricia D. Cafferata, Esq., and L. Patrick Hearn;

Also present were:

Neil A. Rombardo, Esq., Senior Deputy Attorney General
Members of the General Public and Media

Chairman Jenkins called the meeting to order at 9:08 a.m., Wednesday, June 14, 2006.

Agenda Item 1 – Open Session to approve the Minutes of the May 19, 2006, Commission hearing

Chairman Jenkins opened this agenda item to approve the minutes of the May 19, 2006 Commission hearing. Vice Chairman Hutchison moved for the approval of the minutes. Commissioner Kosinski seconded the motion, which was put to a vote and passed unanimously.

Agenda Item 2 – Open Session to interview candidates for the position of Executive Director and select the candidate to be offered the position

Chairman Jenkins opened this agenda item by disclosing that one of the candidates works with her as Of Counsel to her law firm, creating a conflict. As a result, she would be recusing herself from the interviews and deliberations. She also explained that she had abstained from participating in any way in the preliminary discussions with any of the candidates, and had appointed a subcommittee to head up the interview and selection process. She then turned the meeting over to Vice Chairman, Mark Hutchison.

Vice Chairman Hutchison explained to the candidates how the interviewing process will be conducted, and advised the candidates they would be interviewed in the order the resumes were received, which was in alphabetical order.

The candidates were interviewed in the following order: Mary-Ann Brown, Patricia D. Cafferata, and L. Patrick Hearn. After the three candidate interviews, each Commissioner then provided his impressions of the three individuals. Commissioner Kosinski moved that Patrick Hearn be offered the position of Executive Director, contingent upon his service to the Commission, if he accepted the position, to begin no later than August 1. Commissioner Keele seconded the motion. The motion was put to a vote and passed five to two, with Commissioners Cashman and Flangas voting no.

Vice Chairman Hutchison offered the position of Executive Director to Mr. Hearn. Mr. Hearn accepted the position.

Agenda Item 3 – Request for Advisory Opinion No. 06-26

Open session to hear testimony, receive evidence, deliberate, and render an opinion relating to an Advisory Opinion Request submitted by Kathleen V. Ancho, Secretary to the Sheriff, Lander County, pursuant to NRS 281.511(1). (Confidentiality waived)

Chairman Jenkins opened the agenda item, and asked investigator, Matt Di Orio, to introduce the request submitted by Ms. Ancho. As presented, the issue is whether a conflict of interest would exist if Ms. Ancho, secretary for the Lander County Sheriff's Department, were to run for a seat on a Lander County board of county commissioners and, if elected, remain employed in her position as secretary with the Lander County Sheriff.

Following testimony and deliberations, Vice Chairman Hutchison moved that the commission determine that Ms. Ancho would need to be mindful of the potential conflicts created by a dual capacity as both a county commissioner and a county employee, and the risks of even an appearance of impropriety, and that she would need to consult her commission counsel to determine how to address disclosure and abstention. Chairman Jenkins seconded the motion. The motion was put to a vote, with 4 ayes and 4 nays; therefore, the motion failed. Those in favor were Commissioners Capurro, Keele, Vice Chairman Hutchison and Chairman Jenkins. Those opposed were Commissioners Cashman, Hsu, Kosinski and Flangas.

After further discussions, Commissioner Hsu moved that, based upon the facts presented today, and based on the provisions of the Commission's advisory opinion 98-71, which quotes 281.481(2) and includes an interpretation of that statute, the Commission hold that Ms. Ancho, if elected, has a choice either to serve on the county commission, or serve as an employee, but that she cannot do both. Commissioner Flangas seconded the motion. At the request of Vice Chairman Hutchison, Commissioner Hsu clarified his motion does not contemplate creating an absolute rule, but makes a fact-specific determination, for this case only. The motion was put to a vote and passed 6 to 2, with Commissioner Kosinski and Chairman Jenkins opposing.

Agenda Item 4 – Request for Opinion No. 06-23

Open session to hear testimony, receive evidence, deliberate, and render an opinion relating to a Request for Opinion submitted pursuant to NRS 281.511(2)(b), alleging that certain conduct of Kevin Phillips, Mayor, City of Caliente; Chairman, Joint County and City Impact Alleviation Committee, violated the provisions of NRS 281.481(1), NRS 281.481(2), and NRS 281.571(1)(e).

Chairman Jenkins noted that agenda item number 4 has been taken off the agenda and has been rescheduled tentatively for July 11th. Mayor Phillips has asked for extra time to prepare for his hearing. The agenda item was closed.

Agenda Item 6 – Open Session for Public Comment

Chairman Jenkins exercised her authority to open the agenda item out of the order presented on the Commissioner's agenda. The item was opened, and no public comment was made. The agenda item was closed.

Agenda Item 5 – Closed Session to confer with Legal Counsel

Closed session pursuant to NRS 241.015, Subsection 2(b)(2), to confer with Legal Counsel regarding pending litigation in which the Commission has supervision, control, jurisdiction, or advisory power; and, if necessary, to deliberate toward a decision on the matter.

Chairman Jenkins adjourned the meeting at 2:49 p.m.

Minutes transcribed by:

Minutes approved July 11, 2006

Emily H. Nunez, Office Manager

Caren Jenkins, Esq., Chairman